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**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2007-0320-PWS-E   **TCEQ ID:** RN101217925   **CASE NO.:** 32851  
**RESPONDENT NAME:** Texas H2O, Inc.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Forest Acres Gardens, Corner of Garden Acres Road and Teague Road, Mansfield, Tarrant County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b>   <input checked="" type="checkbox"/> Yes   <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 1, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b> TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Epifanio Villareal, Enforcement Division, Enforcement Team 2, R-13, (210) 403-4033; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Jess Lewellyn, Registered Agent/Owner, Texas H2O, Inc., Post Office Box 613, Mansfield, Texas 76063 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 7, 2007</p> <p><b>Date of NOE Relating to this Case:</b> February 9, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review. Seven violations were documented.</p> <p><b>AIR/WATER/WASTE</b></p> <p>1) Failed to adhere to the American Water Works Association ("AWWA") design standards for ground storage tanks [30 TEX. ADMIN. CODE § 290.43(c)(2)].</p> <p>2) Failed to maintain copies of well completion data on file as long as the well remains in service [30 TEX. ADMIN. CODE § 290.46(n)(3)].</p> <p>3) Failed to compile a thorough plant operations manual and keep it up-to-date for operator review and reference [30 TEX. ADMIN. CODE § 290.42(1)].</p> <p>4) Failed to properly locate the inlet and outlet connections so as to prevent short-circuiting or stagnation of water within the ground storage tank [30 TEX. ADMIN. CODE § 290.43(c)(5)].</p> <p>5) Failed to provide a minimum well capacity of 0.6 gallons per minute ("gpm") per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(B)(i) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p> <p>6) Failed to provide a minimum service pump capacity of 2.0 gallons per minute ("gpm") per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iii) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p> <p>7) Failed to provide a map of the distribution system to help locate valves</p>	<p><b>Total Assessed:</b> \$1,496</p> <p><b>Total Deferred:</b> \$299  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$1,197</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that by March 16, 2007 the Respondent has implemented the following corrective measures at the Facility:</p> <p>a) Compiled a plant operations manual that includes procedures to be followed in the event of an emergency;</p> <p>b) Positioned the inlet and outlet connections on the ground storage tank so as to prevent short circuiting or stagnation;</p> <p>c) Provided a minimum service pump capacity of 2.0 gallons per minute per connection after installing a new 5.0 horsepower pump;</p> <p>d) Installed a gooseneck vent on the ground storage tank; and</p> <p>e) Provided an up-to-date map of the distribution system showing the location of all valves and mains.</p> <p><b>Ordering Provisions:</b></p> <p>2) The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, provide a copy of the well log and cementing certificate for well No. 2 (G2200186B).</p> <p>b. Within 45 days after the effective date of this Agreed Order submit written certification of compliance with Ordering Provision 2.a.</p> <p>c. Within 90 days after the effective date of this Agreed Order, provide a minimum well capacity of 0.6 gpm per connection; and</p> <p>d. Within 105 days after the effective date of this Agreed Order, submit written certification encompassing detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.c.</p>

and mains in the event of an emergency [30 TEX. ADMIN. CODE § 290.46(n)(2)].		
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# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

<b>DATES</b>	<b>Assigned</b>	26-Feb-2007
	<b>PCW</b>	27-Feb-2007
	<b>Screening</b>	27-Feb-2007
	<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Texas H2O, Inc.
<b>Reg. Ent. Ref. No.</b>	RN101217925
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>	
<b>Enf./Case ID No.</b>	32851
<b>Docket No.</b>	2007-0320-PWS-E
<b>Media Program(s)</b>	Public Water Supply
<b>Multi-Media</b>	
<b>Admin. Penalty \$ Limit Minimum</b>	\$50
<b>Maximum</b>	\$1,000
<b>No. of Violations</b>	7
<b>Order Type</b>	1660
<b>Enf. Coordinator</b>	Christopher Miller
<b>EC's Team</b>	EnforcementTeam 2

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>		<b>Subtotal 1</b>	\$1,360
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
<b>Compliance History</b>	10% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$136
<b>Notes</b>	Enhancement due to two previous Notices of Violation ("NOV") with violations that are the same or similar to the violations in the current enforcement case.		
<b>Culpability</b>	No 0% Enhancement	<b>Subtotal 4</b>	\$0
<b>Notes</b>	The Respondent does not meet the culpability criteria.		
<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	\$0
<b>Extraordinary</b>	Before NOV	NOV to EDPRP/Settlement Offer	
<b>Ordinary</b>			
<b>N/A</b>	X	(mark with x)	
<b>Notes</b>	The Respondent does not meet the good faith criteria.		
<b>Total EB Amounts</b>	\$590	<b>0% Enhancement*</b>	<b>Subtotal 6</b>
<b>Approx. Cost of Compliance</b>	\$9,950	<b>*Capped at the Total EB \$ Amount</b>	\$0
<b>SUM OF SUBTOTALS 1-7</b>		<b>Final Subtotal</b>	\$1,496
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<b>Adjustment</b>	\$0
Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)			
<b>Notes</b>			
		<b>Final Penalty Amount</b>	\$1,496
<b>STATUTORY LIMIT ADJUSTMENT</b>		<b>Final Assessed Penalty</b>	\$1,496
<b>DEFERRAL</b>		20% Reduction	<b>Adjustment</b>
			-\$299
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)			
<b>Notes</b>	Deferral offered for expedited settlement.		
<b>PAYABLE PENALTY</b>			\$1,197

Screening Date 27-Feb-2007

Docket No. 2007-0320-PWS-E

PCW

Respondent Texas H2O, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32851

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101217925

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 10%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

Enhancement due to two previous Notices of Violation ("NOV") with violations that are the same or similar to the violations in the current enforcement case.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 10%

Screening Date 27-Feb-2007

Docket No. 2007-0320-PWS-E

PCW

Respondent Texas H2O, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32851

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101217925

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.43(c)(2)

Violation Description

Failed to adhere to the American Water Works Association ("AWWA") design standards for ground storage tanks ("GSTs"). Specifically, on the day of the investigation the vent pipe was located on the overflow pipe rather than the GST itself.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 10%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to construct storage tanks in accordance with AWWA standards can pose a risk to employee safety and could allow contaminants to enter the water supply that would not exceed levels protective of human health.

Adjustment \$900

\$100

## Violation Events

Number of Violation Events 1

20 Number of violation days

mark only one  
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$29

Violation Final Penalty Total \$110

This violation Final Assessed Penalty (adjusted for limits) \$110

## Economic Benefit Worksheet

**Respondent** Texas H2O, Inc.  
**Case ID No.** 32851  
**Reg. Ent. Reference No.** RN101217925  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$1,000	18-Oct-2006	16-Mar-2007	0.4	\$1	\$27	\$29
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to provide an adequate vent and proper roof access opening on the GST. Date required is the date of the investigation. Final date is the date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

There are no avoided costs associated with this violation.

Approx. Cost of Compliance

\$1,000

TOTAL

\$29



Screening Date 27-Feb-2007

Docket No. 2007-0320-PWS-E

PCW

Respondent Texas H2O, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32851

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101217925

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.46(n)(3)

Violation Description

Failed to maintain copies of well completion data such as well material setting data, geological log, scaling information (pressure cementing and surface protection), disinfection information, microbiological sample results, and a chemical analysis report of a representative sample of water from the well kept on file as long as the well remains in service. Specifically, the required information was not available for well No. 2 (G2200186B).

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

Failed to comply with 100% of the rule requirement.

Adjustment \$750

\$250

## Violation Events

Number of Violation Events 1

20 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$250

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$28

Violation Final Penalty Total \$275

This violation Final Assessed Penalty (adjusted for limits) \$275

## Economic Benefit Worksheet

**Respondent:** Texas H2O, Inc.  
**Case ID No.:** 32851  
**Reg. Ent. Reference No.:** RN101217925  
**Media:** Public Water Supply  
**Violation No.:** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$500	18-Oct-2006	27-Nov-2007	1.1	\$28	n/a	\$28
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain the well log and cementing certificate for well No. 2. Date required is the date of the investigation. Final date is the estimated date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

There are no avoided costs associated with this violation.

Approx. Cost of Compliance

\$500

TOTAL

\$28

Screening Date 27-Feb-2007

Docket No. 2007-0320-PWS-E

PCW

Respondent Texas H2O, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32851

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101217925

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.42(l)

Violation Description

Failed to compile a thorough plant operations manual and keep it up-to-date for operator review and reference. Specifically, on the date of the investigation the manual did not include procedures to be followed in the event of an emergency.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

Failed to comply with 20% of the rule requirement.

Adjustment \$990

\$10

## Violation Events

Number of Violation Events 1

20 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$10

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$11

This violation Final Assessed Penalty (adjusted for limits) \$11

## Economic Benefit Worksheet

**Respondent:** Texas H2O, Inc.  
**Case ID No.:** 32851  
**Reg. Ent. Reference No.:** RN101217925  
**Media:** Public Water Supply  
**Violation No.:** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$50	18-Oct-2006	16-Mar-2007	0.4	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to create and insert emergency procedures into the plant operations manual. Date required is the date of the investigation. Final date is the date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

There are no avoided costs associated with this violation.

Approx. Cost of Compliance

\$50

**TOTAL**

\$1

Screening Date 27-Feb-2007

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PCW

Respondent Texas H2O, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32851

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101217925

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 290.43(c)(5)

Violation Description

Failed to properly locate the inlet and outlet connections so as to prevent short-circuiting or stagnation of water within the ground storage tank. Specifically, during the investigation both the inlet and outlet were located at the bottom of the tank.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective to human health as a result of the violation.

Adjustment \$750

\$250

## Violation Events

Number of Violation Events 1

20 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$250

One quarterly event is recommended based on the February 7, 2007 record review date to the February 27, 2007 screening date.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$275

This violation Final Assessed Penalty (adjusted for limits) \$275

## Economic Benefit Worksheet

**Respondent** Texas H2O, Inc.  
**Case ID No.** 32851  
**Reg. Ent. Reference No.** RN101217925  
**Media** Public Water Supply  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$200	18-Oct-2006	16-Mar-2007	0.4	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to properly locate the inlet and outlet connections. Date required is the date of the investigation. Final date is the date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

There are no avoided costs associated with this violation.

Approx. Cost of Compliance

\$200

TOTAL

\$4



Screening Date 27-Feb-2007

Docket No. 2007-0320-PWS-E

PCW

Respondent Texas H2O, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32851

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101217925

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(B)(i) and Tex. Health &amp; Safety Code § 341.0315(c)

## Violation Description

Failed to provide a minimum well capacity of 0.6 gallons per minute ("gpm") per connection. Specifically, a system with 137 connections should have a capacity of 82.2 gpm. At the time of the investigation the Facility was providing 63 gpm, indicating a 23% deficiency.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Without sufficient capacity, customers of the water supply could experience water shortages and the system's ability to provide a safe and adequate supply of water to the customers could be impaired.

Adjustment \$750

\$250

## Violation Events

Number of Violation Events 1

20 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$250

One quarterly event is recommended based on the February 7, 2007 record review date to the February 27, 2007 screening date.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$447

Violation Final Penalty Total \$275

This violation Final Assessed Penalty (adjusted for limits) \$275

## Economic Benefit Worksheet

**Respondent** Texas H2O, Inc.  
**Case ID No.** 32851  
**Reg. Ent. Reference No.** RN101217925  
**Media** Public Water Supply  
**Violation No.** 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

### Delayed Costs

Equipment	\$5,000	18-Oct-2006	27-Jan-2008	1.3	\$21	\$426	\$447
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to increase well capacity to a minimum 0.6 gpm per connection. Date required is the date of the investigation. Final date is the estimated date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

There are no avoided costs associated with this violation.

Approx. Cost of Compliance

\$5,000

TOTAL

\$447



Screening Date 27-Feb-2007

Docket No. 2007-0320-PWS-E

PCW

Respondent Texas H2O, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32851

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101217925

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(C)(iii) and Tex. Health &amp; Safety Code § 341.0315(c)

## Violation Description

Failed to provide a minimum service pump capacity of 2.0 gallons per minute ("gpm") per connection. Specifically, a system with 137 connections should have a capacity of 274 gpm. At the time of the investigation the Facility was providing 200 gpm, indicating a 27% deficiency.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

The lack of service pump capacity could result in water outages and backflow problems potentially allowing a significant amount of contaminants to enter the water supply which would not exceed levels protective of human health.

Adjustment \$750

\$250

## Violation Events

		1	20	Number of violation days
mark only one with an x	daily			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			

Violation Base Penalty \$250

One quarterly event is recommended based on the February 7, 2007 record review date to the February 27, 2007 screening date.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$57

Violation Final Penalty Total \$275

This violation Final Assessed Penalty (adjusted for limits) \$275

## Economic Benefit Worksheet

**Respondent:** Texas H2O, Inc.  
**Case ID No:** 32851  
**Reg. Ent. Reference No:** RN101217925  
**Media:** Public Water Supply  
**Violation No:** 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

### Delayed Costs

Equipment	\$2,000	18-Oct-2006	16-Mar-2007	0.4	\$3	\$54	\$57
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to provide a minimum service pump capacity of 2.0 gpm per connection. Date required is the date of the investigation. Final date is the date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

There are no avoided costs associated with this violation.

Approx. Cost of Compliance

\$2,000

**TOTAL**

\$57

Screening Date 27-Feb-2007

Docket No. 2007-0320-PWS-E

PCW

Respondent Texas H2O, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32851

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101217925

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

Violation Number 7

Rule Cite(s)

30 Tex. Admin. Code § 290.46(n)(2)

Violation Description

Failed to provide a map of the distribution system to help locate valves and mains in the event of an emergency.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

Failed to comply with 100% of the rule requirement.

Adjustment \$750

\$250

## Violation Events

1

20 Number of violation days

mark only one  
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$275

This violation Final Assessed Penalty (adjusted for limits) \$275

## Economic Benefit Worksheet

**Respondent** Texas H2O, Inc.  
**Case ID No.** 32851  
**Reg. Ent. Reference No.** RN101217925  
**Media** Public Water Supply  
**Violation No.** 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,200	18-Oct-2006	16-Mar-2007	0.4	\$24	n/a	\$24

Notes for DELAYED costs

Estimated cost to survey, prepare and submit a distribution map. Date required is the date of the investigation. Final date is the date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

There are no avoided costs associated with this violation.

Approx. Cost of Compliance

\$1,200

**TOTAL**

\$24

# Compliance History

Customer/Respondent/Owner-Operator: CN600656201 Texas H2O, Inc. Classification: AVERAGE Rating: 0.69

Regulated Entity: RN101217925 FOREST ACRES GARDENS Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2200136  
WATER LICENSING LICENSE 2200186

Location: CORNER OF GARDEN ACRES RD AND TEAGUE RD,  
TARRANT COUNTY

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: February 27, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 27, 2002 to February 27, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Chris Miller Phone: 512-239-8580

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 02/21/2003 (21095)
- 2 11/10/2006 (514282)
- 3 02/22/2007 (539584)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/21/2003 (21095)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)

Description: Failure to provide proper roof hatch. For compliance documentation submit photograph of replaced roof hatch when major repair or maintenance is performed on tank.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to provide sanitary control easements.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(3)

Description: Failure to provide well log and cementing certificate for Well 2.

Date: 11/10/2006 (514282)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)

Description: Failure to provide proper roof hatch. For compliance documentation submit photograph of replaced roof hatch when major repair or maintenance is performed on tank.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description:	Failure to provide sanitary control easements.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.46(n)(3)		
Description:	Failure to provide well log and cementing certificate for Well 2.	Classification	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.42(l)		
Description:	Failure to compile and maintain current a thorough plant operations manual for operator review and reference. Specifically the manual should have procedures to be followed in the event of an emergency.	Classification	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(1)		
Description:	Failure to provide the ground storage tank with an adequate vent of the gooseneck or roof ventilator type.	Classification	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(5)		
Description:	Failure to locate or design the position of the inlet connections to prevent short circuiting or stagnation of water.	Classification	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)		
Description:	Failure to provide a well production capacity of at least 0.6 gallons per minute per connection.	Classification	Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iii)		
Description:	Failure to provide a service pump capacity of at least 2.0 gallons per minute per connection.	Classification	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.46(n)(2)		
Description:	Failure to prepare and maintain a map of the distribution system so that valves and mains may be easily located during emergencies.		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
TEXAS H2O, INC.  
RN101217925**

**§        BEFORE THE  
§  
§        TEXAS COMMISSION ON  
§  
§        ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-0320-PWS-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas H2O, Inc. ("Texas H2O") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and Texas H2O appear before the Commission and together stipulate that:

1. Texas H2O owns and operates a public water supply located at the corner of Garden Acres Road and Teague Road in Tarrant County, Texas (the "Facility") that has approximately 137 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and Texas H2O agree that the Commission has jurisdiction to enter this Agreed Order, and that Texas H2O is subject to the Commission's jurisdiction.
3. Texas H2O received notice of the violations alleged in Section II ("Allegations") on or about February 14, 2007.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Texas H2O of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of One Thousand Four Hundred Ninety-Six Dollars (\$1,496) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Texas H2O has paid One Thousand One Hundred Ninety-Seven Dollars (\$1,197) of the administrative penalty and Two Hundred Ninety-Nine Dollars (\$299) is deferred contingent upon Texas H2O's timely and satisfactory compliance with all the terms of this Agreed Order.





The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Texas H2O fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Texas H2O to pay all or part of the deferred penalty.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and Texas H2O have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that by March 16, 2007 Texas H2O has implemented the following corrective measures at the Facility:
  - a. Compiled a plant operations manual that includes procedures to be followed in the event of an emergency;
  - b. Positioned the inlet and outlet connections on the ground storage tank so as to prevent short circuiting or stagnation;
  - c. Provided a minimum service pump capacity of 2.0 gallons per minute per connection after installing a new 5.0 horsepower pump;
  - d. Installed a gooseneck vent on the ground storage tank; and
  - e. Provided an up-to-date map of the distribution system showing the location of all valves and mains.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Texas H2O has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, Texas H2O is alleged to have:

1. Failed to adhere to the American Water Works Association ("AWWA") design standards for ground storage tanks, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(2), as documented during a record review conducted on February 7, 2007.



2. Failed to maintain copies of well completion data on file as long as the well remains in service, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(3), as documented during a record review conducted on February 7, 2007. Specifically, the required information was not available for well No. 2 (G2200186B).
3. Failed to compile a thorough plant operations manual and keep it up-to-date for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l) as documented during a record review conducted on February 7, 2007.
4. Failed to properly locate the inlet and outlet connections so as to prevent short-circuiting or stagnation of water within the ground storage tank, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(5), as documented during a record review conducted on February 7, 2007.
5. Failed to provide a minimum well capacity of 0.6 gallons per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(B)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during a record review conducted on February 7, 2007.
6. Failed to provide a minimum service pump capacity of 2.0 gallons per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(c)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during a record review conducted on February 7, 2007.
7. Failed to provide a map of the distribution system to help locate valves and mains in the event of an emergency, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(2), as documented during a record review conducted on February 7, 2007.

### **III. DENIALS**

Texas H2O generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that Texas H2O pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and Texas H2O's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texas H2O, Inc., Docket No. 2007-0320-PWS-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088



2. It is further ordered that Texas H2O shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, provide a copy of the well log and cementing certificate for well No. 2 (G2200186B), as required by 30 TEX. ADMIN. CODE § 290.46.
- b. Within 45 days after the effective date of this Agreed Order submit written certification, as described below in Ordering Provision 2.d, that demonstrates compliance with Ordering Provision 2.a.
- c. Within 90 days after the effective date of this Agreed Order, provide a minimum well capacity of 0.6 gpm per connection, as required by 30 TEX. ADMIN. CODE § 290.45; and
- d. Within 105 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Manager, Water Section  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2301 Gravel Drive  
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Texas H2O. Texas H2O is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.



4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Texas H2O shall be made in writing to the Executive Director. Extensions are not effective until Texas H2O receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against Texas H2O in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Texas H2O, or three days after the date on which the Commission mails notice of the Order to Texas H2O, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.





## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director


8/20/2007  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

4/28/07  
Date

J W LEWELLYN  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Texas H2O, Inc.

OWNER  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

10/8/88

10/8/88

A handwritten signature in dark ink, appearing to be "John Doe" or similar, written in a cursive style.

my personal file